

APPLICATION ACCEPTED: May 24, 2013 DATE OF PUBLIC HEARING: July 31, 2013

TIME: 9:00 a.m.

County of Fairfax, Virginia

July 24, 2013

STAFF REPORT

SPECIAL PERMIT AMENDMENT APPLICATION NO. SPA 2003-SU-012

SULLY DISTRICT

APPLICANT:

Crilley Warehouse, LLC and

Nova Field House, LLC

OWNER:

Crilley Warehouse, LLC

ZONING:

1-3, WS, AN

LOCATION:

14810 Murdock Street, Chantilly, 20151

ZONING ORDINANCE PROVISION:

5-303

TAX MAP:

33-2 ((2)) 13C and 14

LOT SIZE:

4.10 acres

PLAN MAP:

Mixed Use

SP PROPOSAL:

Group 5 – To amend SP 2003-SU-012 previously approved for a commercial recreation use to permit change in permittee and modification of development conditions.

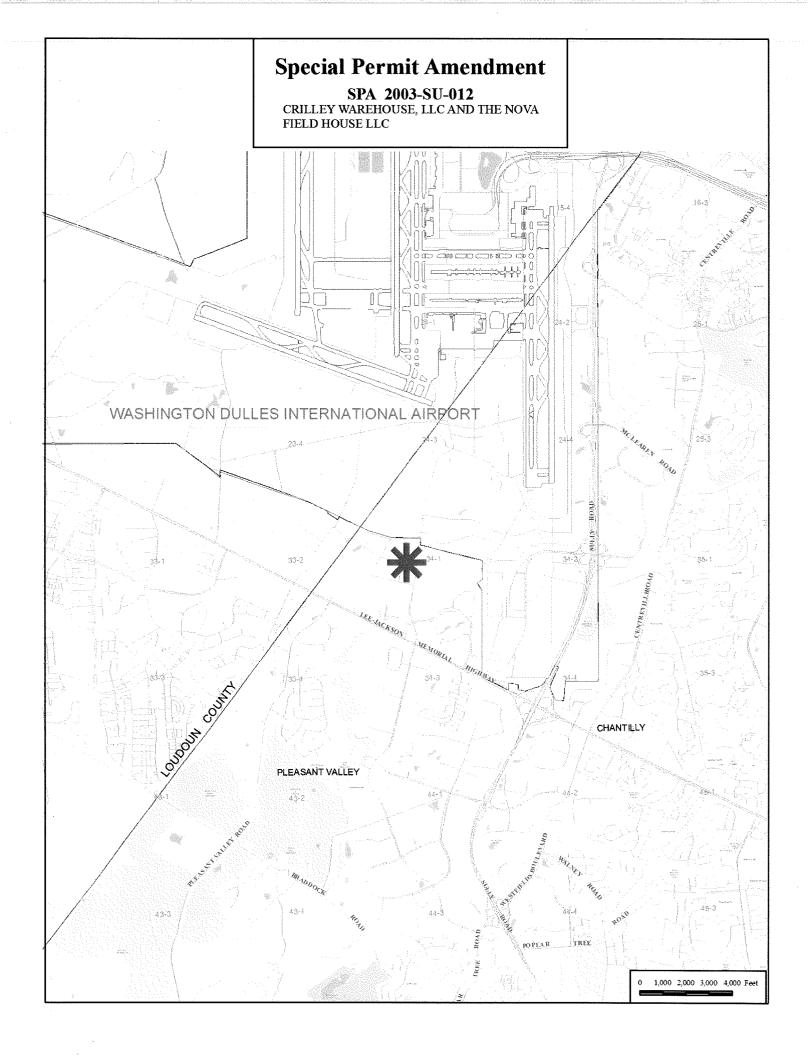
STAFF RECOMMENDATION: Staff recommends approval of SPA 2003-SU-012 subject to the proposed development conditions contained in Appendix 1.

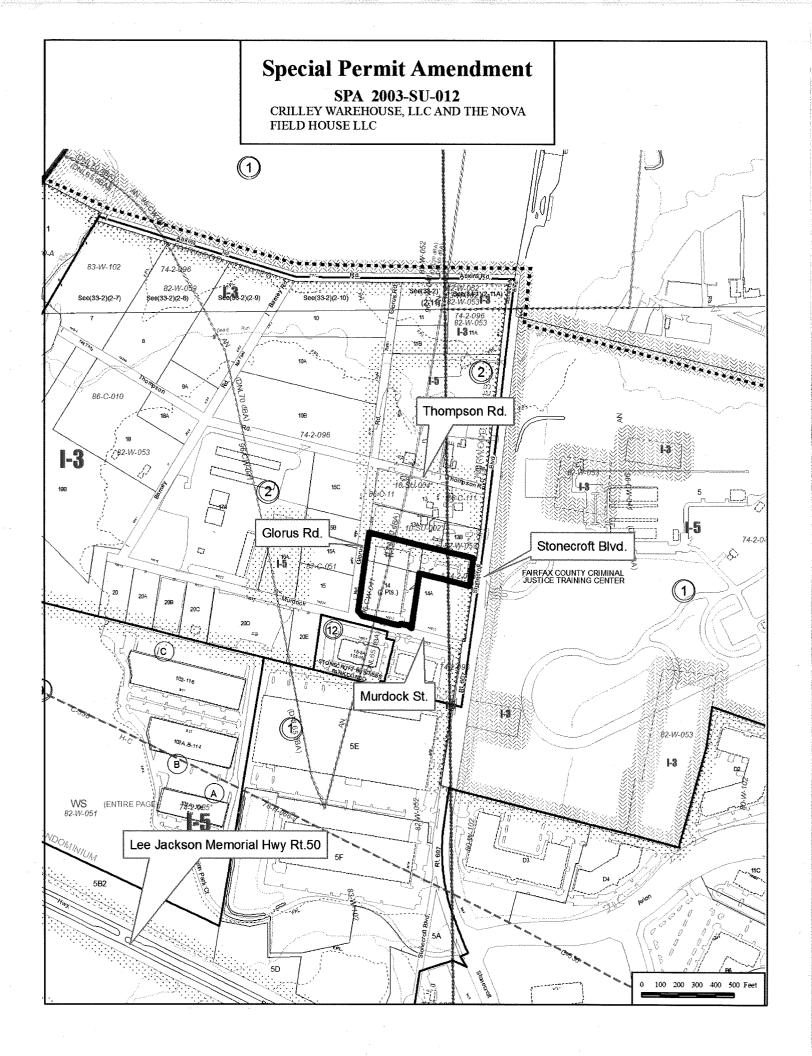
It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions, relieve the applicants/owners from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

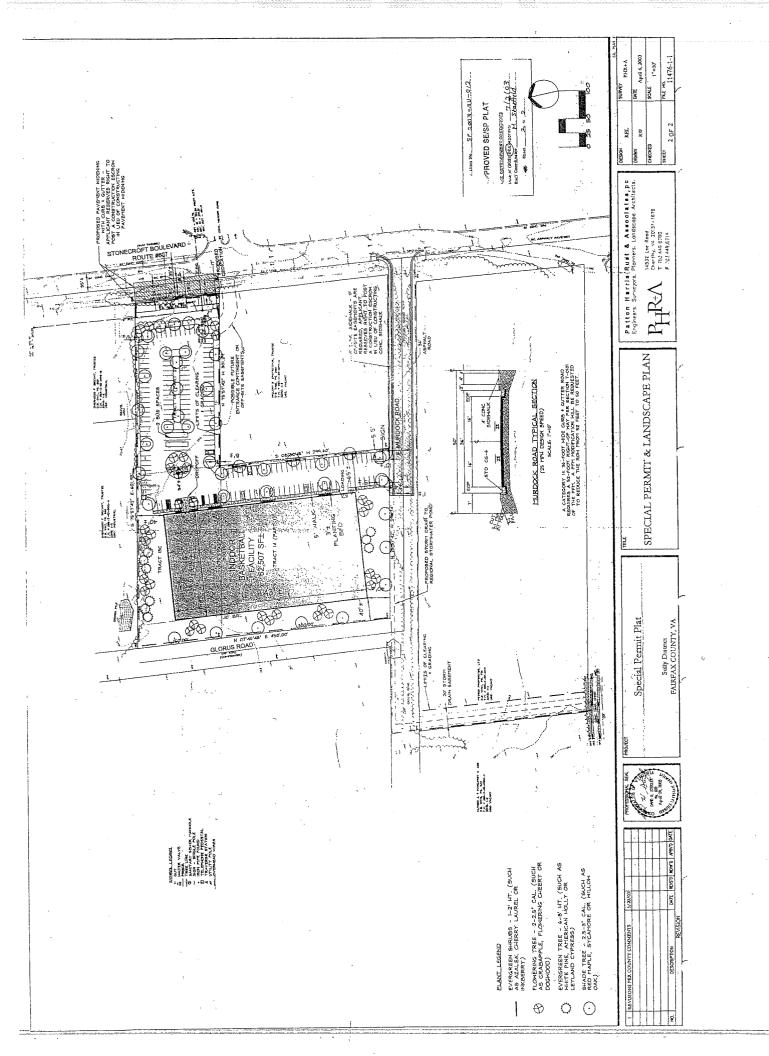
It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals. A copy of the BZA's Resolution setting forth this decision will be mailed within five (5) days after the decision becomes final.

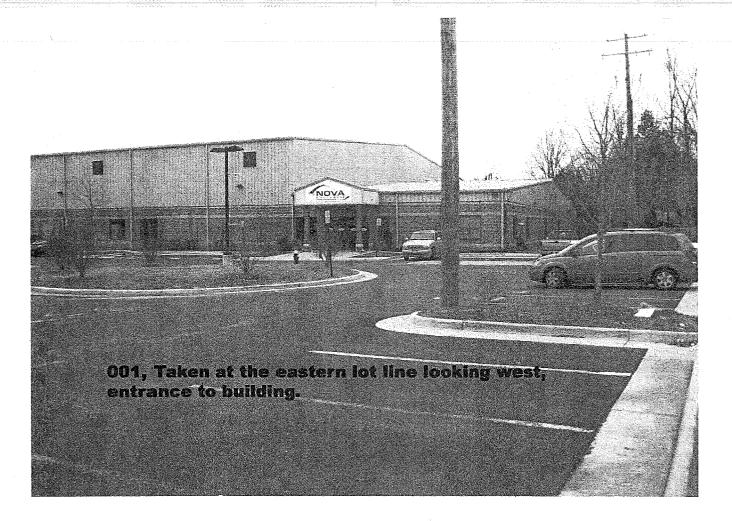
The approval of this application does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to the application.

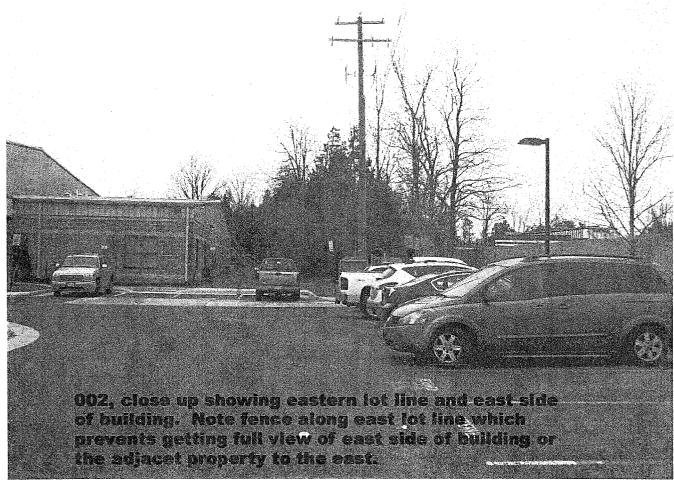
For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 703-324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia 22035-5505.

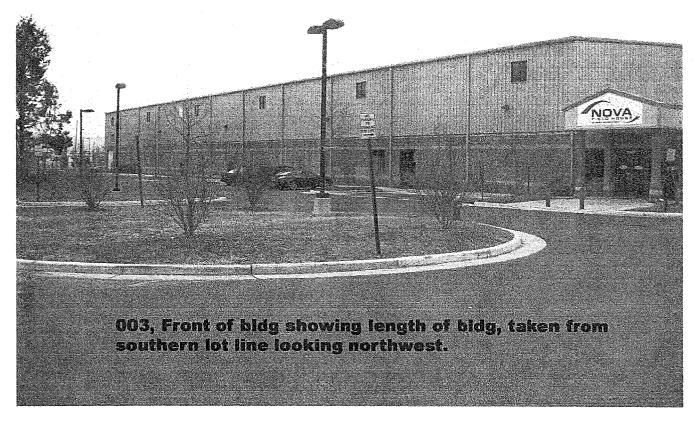


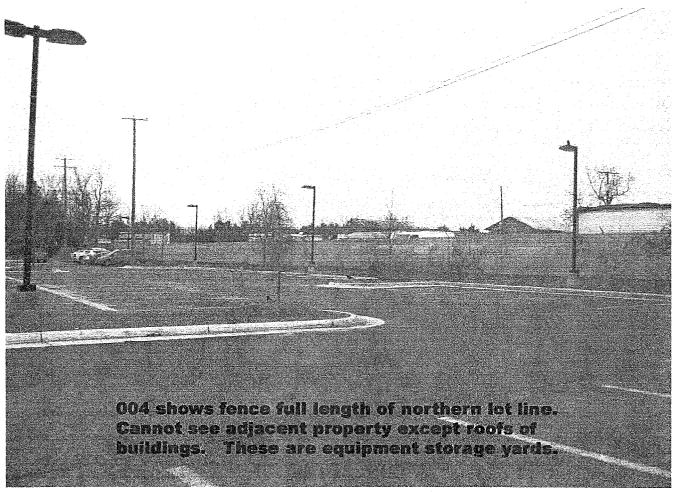


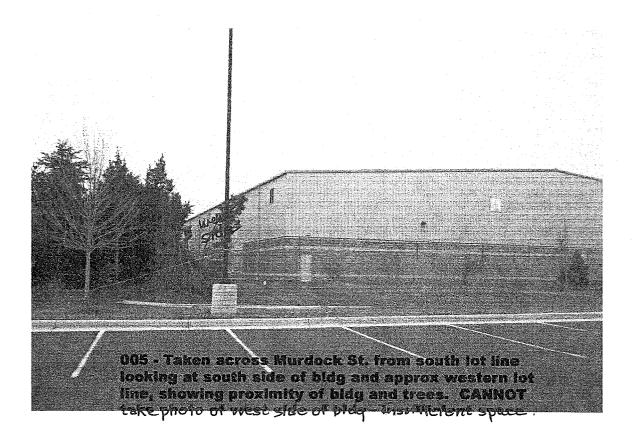


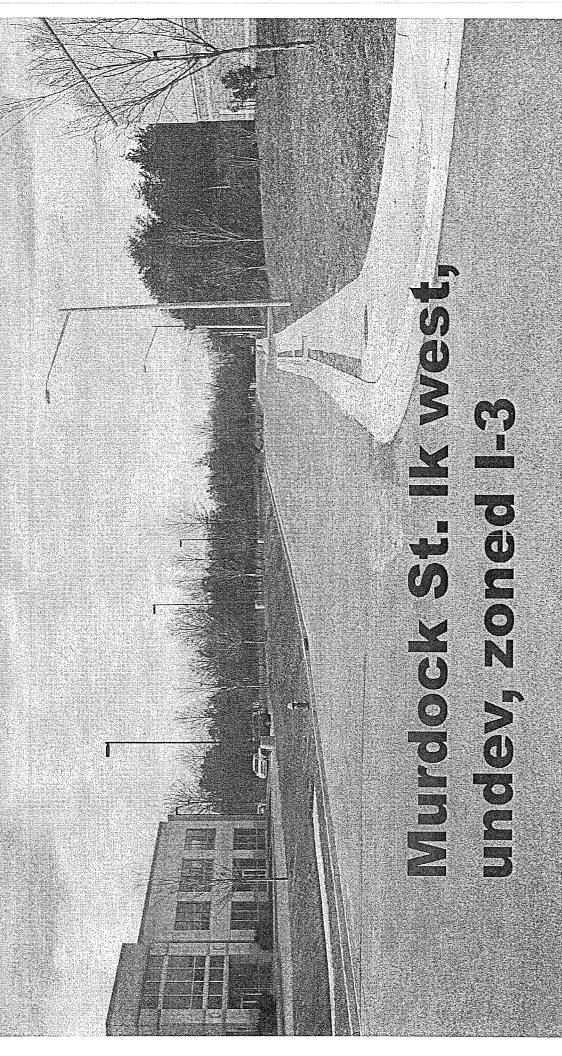


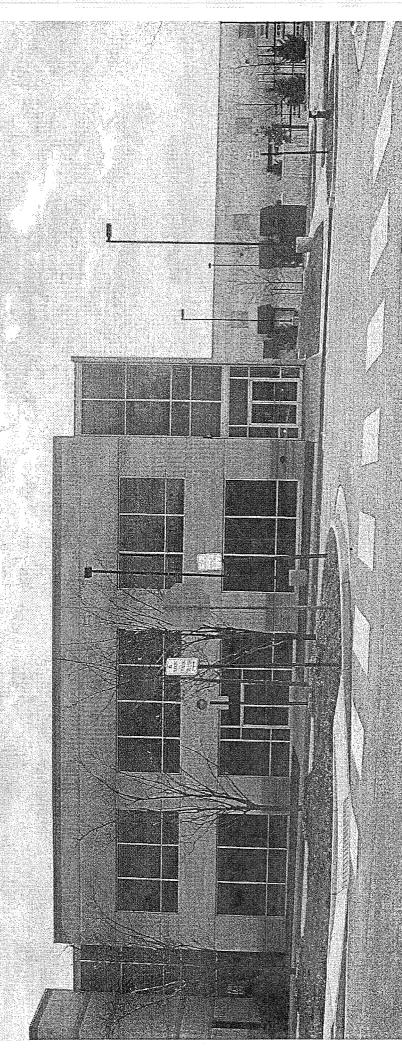




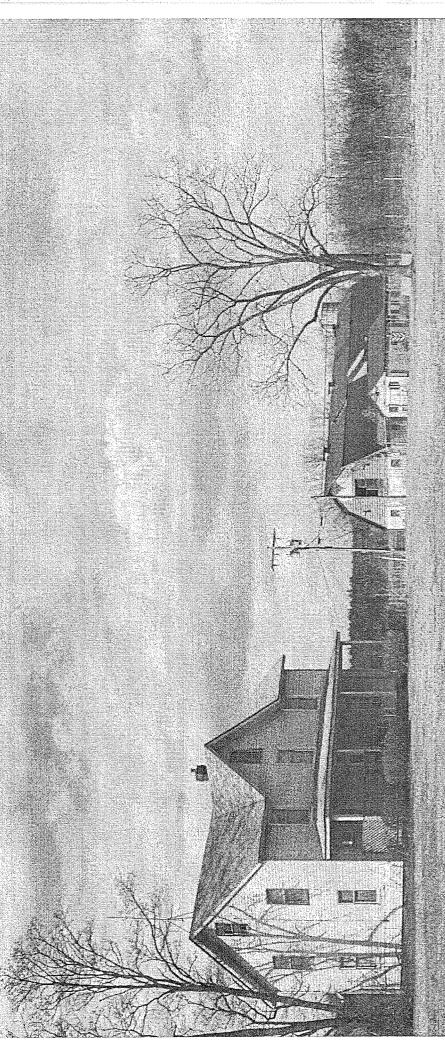






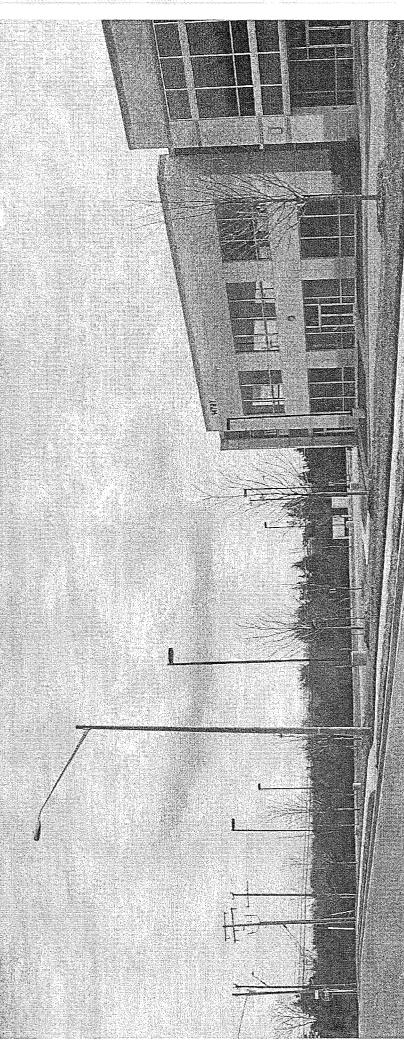


across Murdock Street. Mostly vacant building



ST FOEON SOUVE

Prop to north, NOVA bldg



East, Under prop east Murdock and across From entrance 1k

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DESCRIPTION OF THE APPLICATION

The applicant requests to amend SP 2003-SU-012, previously approved for a commercial recreation use, to permit a change in permittee from Curtis N. Symonds to Crilley Warehouse, LLC to be co-applicants with Nova Field House, LLC. The applicant indicates Nova Field House, LLC is the current lessee of the property. As such, they are included as a permittee for the special permit. The applicant requests to revise development condition #1 to include Nova Field House as a co-permittee and to allow the tenant to transfer permittees without necessitating special permit amendment approval from the Board of Zoning Appeals. The commercial recreation use has already been reviewed and approved for the property, and as long as the property maintains a commercial recreation use, the special permit remains valid.

The applicant also requests to revise development condition #5 to remove hour's restrictions. The area is industrial in nature and within an Airport Noise overlay district. Residential, or other noise sensitive uses, will not likely surround the subject parcel. The BZA has approved other 24-hour commercial recreation uses in the recent past, including Lifetime Fitness, in an I-3 and I-4 district in the Reston area, as well as Cherokee, LLC, zoned I-6, in the Annandale area. No other changes to the site or use are proposed with this application.

The existing building contains 62,507 square feet of gross floor area. The existing hours of operation are from 7:00 a.m. to 11:00 p.m. Monday – Saturday and 9:00 a.m. to 9:00 p.m. Sunday. The site includes an existing parking lot, consisting of 136 parking spaces.

LOCATION AND CHARACTER

Existing Site Description: The use is located in an existing building located at 14810 Murdock Street which has frontage on Murdock Street and Stonecroft Boulevard. It is surrounded by a mix of industrial uses, parking and vegetation, zoned I-3 and I-5.

Surrounding Area Description:

Direction	Use	Zoning	Plan
North	Industrial	I-5	Industrial
South	Industrial	I-3	Industrial
East	Criminal Justice Training Facility	I-5	Industrial
West	Industrial	I-3	Industrial

SPA 2003-SU-012 Page 2

BACKGROUND

On June 24, 2003, the Board of Zoning Appeals approved Special Permit SP 2003-SU-012 for commercial athletic courts on the subject property in the name of Curtis N. Symonds. A copy of the Resolution and approved special permit plat are included as Appendix 4.

ANALYSIS

Comprehensive Plan Provisions

Plan Area:

Bull Run Planning District; Area III

Planning Sector: Dulles Suburban Center

Plan Map:

Mixed Use

Land Use Analysis

According to the Comprehensive Plan Map, the site is planned for mixed use. No new construction is proposed. The only changes proposed are for a change in permittee and to delete the limitation on the hours of operation, therefore, there are no land use issues associated with this request.

Transportation Analysis

There are no transportation issues associated with this request.

Environmental Analysis

There are no environmental issues associated with this request.

ZONING ORDINANCE PROVISIONS

The existing structure on site currently meets all bulk regulations for the I-3 Zoning District.

Special Permit Requirements (See Appendix 5)

- General Special Permit Standards (Sect. 8-006)
- Standards for All Group 5 Uses (Sect. 8-503)

Summary of Zoning Ordinance Provisions

Staff believes that all applicable standards have been satisfied with the proposed development conditions.

CONCLUSIONS

Since surrounding uses are industrial, staff does not object to deleting the hours of operation as requested. Staff finds there are no residential properties in the area to be disturbed by the proposed change. Therefore, staff concludes that the subject application is in harmony with the Comprehensive Plan and in conformance with the applicable Zoning Ordinance provisions with the implementation of the Proposed Development Conditions contained in Appendix 1 of the Staff Report.

RECOMMENDATIONS

Staff recommends approval of SPA 2003-SU-012 subject to the Proposed Development Conditions in Appendix 1. It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals.

APPENDICES

- 1. Proposed Development Conditions
- 2. Affidavit
- 3. Statement of Justification
- 4. SP 2003-SU-012 Resolution and Plat
- 5. Applicable Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS

July 24, 2013

If it is the intent of the Board of Zoning Appeals to approve SPA 2003-SU-012 located at Tax Map 33-2 ((2)) 13C and 14, to amend SP 2003-SU-012 previously approved for commercial recreation use to permit a change in permittee and development conditions pursuant to Sect. 5-503 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions. Those conditions carried forward from the previous special permits are marked with an asterisk. Conditions that no longer apply have been removed. Minor edits have been made to these conditions to conform to current terminology. These edits have been <u>underlined</u>.

- 1. This approval is granted to the <u>co-applicants</u>, <u>Crilley Warehouse</u>, <u>LLC</u>, <u>and Nova Field House</u>, <u>LLC</u>, and is transferable without further action of this Board, and is for the location indicated on the application, <u>14810 Murdock Street</u>, and is not transferable to other land.*
- 2. This special permit is granted only for the purpose(s), structures and/or use(s) indicated on the special permit plat prepared by Patton, Harris, Rust and Associates, P.C., dated April 6, 2003, as revised through May 20, 2003 and approved with this application, as qualified by these development conditions.*
- 3. A copy of this special permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.*
- 4. This special permit is subject to the provisions of Article 17, Site Plans, as may be determined by the Director, Department of Public Works and Environmental Services (DPWES). Any plan submitted pursuant to this Special Permit shall be in substantial conformance with these conditions. Minor modifications to the approved special permit may be permitted pursuant to Par. 4 of Sect. 8-004 of the Zoning Ordinance.*
- 5. All parking shall be on-site as shown on the special permit plat. If the proposed future entrance is constructed on Stonecroft Boulevard, a special permit amendment will not be required, provided the minimum number of parking spaces required by the Zoning Ordinance is provided.*
- 6. A maximum of 400 patrons may be in the facility at any one time.*
- 7. The athletic courts will be scheduled to allow all participants and spectators in a scheduled session to vacate the facility prior to the commencement of the following session.*
- 8. <u>All</u> lighting shall be provided in accordance with the following:
 - The combined height of the light standards and fixtures shall not exceed

eighteen (18) feet.

- The lights shall be low intensity design, full-cut-off fixtures, which focus
 the light directly onto the subject property. Shields shall be installed, if
 necessary.
- The lights shall be controlled with an automatic shut-off device, and shall be turned off when the site is not in use, except for security lighting directly adjacent to the building(s).
- There shall be no plighting of the existing or proposed buildings.*
- 9. Any proposed signs shall comply with Article 12 of the Zoning Ordinance, notwithstanding however, there shall be no plighting of any signs.*
- 10. Understory and foundation plantings, in addition to the plantings shown on the special permit plat to soften the appearance of the parking area and structure, shall be maintained adjacent to Stonecroft Boulevard and surrounding the building. The species, size, number and location shall be determined in consultation with the Urban Forestry Division of DPWES.*
- 11. All landscaping shall be maintained in good condition. Any dead, dying and hazardous materials shall be replaced.
- 12. Stormwater Management (SWM) and Best Management Practices (BMPs) shall be <u>maintained</u> as determined by the Department of Public Works and Environmental Management (DPWES). If DPWES determined that the SWM/BMP requirements cannot be provided downstream as proposed, they shall be provided on-site as determined by DPWES, however no additional parking spaces shall be deleted except as noted in Condition 6.*

These conditions incorporate and supersede all previous conditions. This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Pursuant to Sect.8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, six (6) months after the date of approval **unless a new non-RUP has been obtained**. The Board of Zoning Appeals may grant additional time to establish the use if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

THE.

AFFIDAVIT

HAS NOT BEEN APPROVED

BY THE OFFICE OF THE COUNTY ATTORNEY

LAW OFFICES

THOMAS, BALLENGER, VOGELMAN AND TURNER, P.C.

124 SOUTH ROYAL STREET ALEXANDRIA, VIRGINIA 22314 (703) 836-3400 FAX (703) 519-8757 jamesturner@odtitle.com

EARL. G. THOMAS (RET.) JOHN M. BALLENGER (1947-2005) JEFFREY A. VOGELMAN° JAMES D. TURNER°

CIARA A. MILLER MATTHEW J. LING ANDERS T. SLEIGHT

°VA, NY, DC BARS

April 18, 2013

Ms. Susan Langdon, Chief Special Permit & Variance Branch 12055 Government Center Parkway, Suite 801 Fairfax, VA 22030-5505

RE: Special Permit Amendment Application for SP 2003-SU-012, Commercial Indoor Recreation Facility, Tax Map 33-2 ((2)) 13C, 14, Sully District

Dear Ms. Langdon:

On behalf of the applicants, I request a change in the Permittee to permit the owner, Crilley Warehouse, LLC and the lessee, Nova Field House, LLC, to be co-applicants and that the owner be permitted to change the lessee if the circumstances, including change of lessee, change in the future. There may be other changes to the Development Conditions which need to be reworded or changed during the course of the application review and/or public hearing. We request any change the applicant and staff believe necessary during the review and public hearing. The conditions of the previous Special Permit state the hours of operation. We believe this is unnecessary and we need flexibility. All uses are inside the building. Accessory uses such as a snack bar will continue. There are no surrounding residential uses that might be adversely affected, nor will the traffic increase.

Subject property has been sold to Crilley Warehousing LLC. The NOVA Field House LLC leases the property and currently operates the commercial recreation facility. A Non-Residential Use Permit (Non-RUP) was issued on October 22, 2012 to The NOVA Field House, LLC for commercial recreation uses.

This property and the surrounding properties are in the I-3, industrial zoning district. Such uses as VDOT's storage and outdoor sand storage, other storage type facilities, construction offices and yards associated with construction operations exist nearby. The property is currently wooded on two sides. Since the commercial recreation uses are within an existing masonry building, the only noise is the vehicles arriving and departing the property. Certainly, this would not create an adverse impact on the adjacent

properties during the day or in the evening. Most of the nearby uses would not be in operation in the evenings or on the weekends which is the peak time for the operation of this facility.. Glorius Street continues to be a paper street and currently is wooded.

All other aspects of the previously approved Special Permit will remain the same. The number of patrons and employees will remain the same. Practices, training and games will continue to be on a scheduled basis to allow all participants and spectators in a scheduled session to vacate the facility prior to the commencement of a following session.

There are no proposed changes in the number of trips in and out of the facility. The area served by the use will continue to be Fairfax and Loudoun Counties. The structure has been completed and occupied for almost 10 years. The exterior façade of the one-story building is masonry and glass.

There are no known hazardous materials generated by this use or stored on site, other than cleaning materials.

The use conforms to the provisions of all applicable Ordinances, Regulations, Adopted Standards and any applicable Conditions. There are no proposed physical changes to the property, therefore, the only waiver requested is to allow the existing Special Permit plat to be used for this minor amendment application.

In you have any questions or need more information, please call me.

Sincérely,

James D. Turner



DEPARTMENT OF PLANNING AND ZONING

Zoning Evaluation Division Special Permit and Variance Branch 12055 Government Center Parkway, Suite 801 Fairfax, Virginia 22035-5510

(703) 324-1280

Fax (703) 324-3924

VIRGINIA

July 2, 2003

Keith C. Martin, Esquire Walsh, Colucci, Lubely, Emrich & Terpak PC 2200 Clarendon Boulevard, 13th Floor Arlington, Virginia 22201

Re:

Special Permit Application, SP 2003-SU-012

Curtis N. Symonds

Dear Mr. Martin:

At its June 24, 2003 meeting, the Board of Zoning Appeals took action to **APPROVE** the above-referenced application. The final approval date is July 2, 2003. A copy of the Resolution is attached.

This action does not constitute exemption from the various requirements of this County and State. The applicant is responsible for ascertaining if permits are required and for obtaining the necessary permits such as Building Permits, Residential Use Permits and Non-Residential Use Permits. Information concerning building permits may be obtained by calling 222-0801.

Sincerely,

Paula McFarland, Substitute Clerk

Board of Zoning Appeals

Enclosure: As stated



COUNTY OF FAIRFAX, VII.

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

CURTIS N. SYMONDS, SP 2003-SU-012 Appl. under Sect(s). 5-303 of the Zoning Ordinance to permit commercial athletic courts. Located at 3801 Glorus Rd. and 3730 Stonecroft Blvd. on approx. 4.10 ac. of land zoned I-3, WS and AN. Sully District. Tax Map 33-2 ((2)) 13C and 14. Mr. Hart moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 24, 2003; and

WHEREAS, the Board has made the following findings of fact:

- 1. The applicant is the owner of the land.
- 2. The applicant has presented testimony showing compliance with the required standards for a special permit.
- 3. The facility will be beneficial to the community providing recreational opportunities for youth and adult activities.
- 4. The design is attractive with its stucco and architectural block, and complements the nearby recreational center and high school facility.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sect(s). 5-303 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED** with the following limitations:

- 1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application, 3801 Glorus Road and 3730 Stonecroft Boulevard and is not transferable to other land.
- 2. This Special Permit is granted only for the purpose(s), structures and/or use(s) indicated on the special permit plat prepared by Patton, Harris, Rust and Associates, P.C., dated April 6, 2003, as revised through May 20, 2003, and approved with this application, as qualified by these development conditions.
- 3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
- 4. This Special Permit is subject to the provisions of Article 17, Site Plans, as may be determined by the Director, Department of Public Works and Environmental Services (DPWES). Any plan submitted pursuant to this Special Permit shall be in substantial

CURTIS N. SYMC SP 2003-SU-012 PAGE 2

conformance with these conditions. Minor modifications to the approved special permit may be permitted pursuant to Par. 4 of Sect. 8-004 of the Zoning Ordinance.

- 5. The hours of operation for the commercial athletic courts shall be limited a maximum of 7:00 a.m. to 11:00 p.m. Monday through Saturday, and 9:00 a.m. to 9:00 p.m. Sunday.
- 6. All parking shall be on-site as shown on the Special Permit plat. If the proposed future entrance is constructed on Stonecroft Boulevard, a Special Permit Amendment will not be required, provided the minimum number of parking spaces required by the Zoning Ordinance is provided.
- 7. A maximum of 400 patrons may be in the facility at any one time.
- 8. The athletic courts will be scheduled to allow all participants and spectators in a scheduled session to vacate the facility prior to the commencement of the following session.
- 9. The building shall be constructed in substantial conformance with the design depicted on Attachment A, building elevation, and shall be constructed with architectural block and stucco-type finish siding.
- 10. Any proposed lighting shall be provided in accordance with the following:
 - The combined height of the light standards and fixtures shall not exceed eighteen (18) feet.
 - The lights shall be low intensity design, full-cut-off fixtures, which focus the light directly onto the subject property. Shields shall be installed, if necessary.
 - The lights shall be controlled with an automatic shut-off device, and shall be turned off when the site is not in use, except for security lighting directly adjacent to the building(s).
 - There shall be no plighting of the existing or proposed buildings.
- 11. Any proposed signs shall comply with Article 12 of the Zoning Ordinance, notwithstanding however, there shall be no plighting of any signs.
- 12. Prior to any land disturbing activity, both a grading plan and a tree preservation plan which establishes the limits of clearing and grading necessary to construct the improvements and preserves the maximum vegetation around the rear and sides of the proposed structure shall be submitted to the Department of Public Works and Environmental Services (DPWES), including the Urban Forestry Division, for review and approval. Prior to any land disturbing activities for construction, if deemed necessary by the Urban Forestry Division, a preconstruction conference shall be held on site between DPWES and representatives of the applicant to include the construction site superintendent responsible for on-site construction activities. The purpose of this meeting shall be to discuss and clarify the limits of clearing and grading, areas of tree preservation and the erosion and sedimentation control plan to be implemented during construction. All utilities located outside the limits of clearing and grading shall be located and installed in a manner which is the least disruptive to the natural vegetation as possible.

- 13. Understory and foundation plantings, in addition to the plantings shown on the Special Permit plat to soften the appearance of the parking area and structure, shall be provided adjacent to Stonecroft Boulevard and surrounding the proposed building. The species, size, number and location shall be determined in consultation with the Urban Forestry Division of DPWES.
- 14. Notwithstanding that which is shown on the plat, pavement widening with curb and gutter on Stonecroft Boulevard, shall be constructed by the applicant at 35 feet from centerline, or a construction escrow shall be provided in lieu of construction as determined by DPWES. Improvements shall be constructed as shown on the special permit plat to Murdock Road. The applicant shall provide an escrow for half of the cost of construction for the remainder of Murdock Road, or at the applicant's option, the applicant may construct improvements on half of the site's remaining frontage on Murdock Road.
- 15. Stormwater Management (SWM) and Best Management Practices (BMPs) shall be provided as determined by the Department of Public Works and Environmental Management (DPWES). If DPWES determines that the SWM/BMP requirements cannot be provided downstream as proposed, they shall be provided on-site as determined by DPWES, however no additional parking spaces shall be deleted except as noted in Condition 6.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Pursuant to Sect.8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, thirty (30) months after the date of approval* unless construction has commenced and been diligently prosecuted. The Board of Zoning Appeals may grant additional time to establish the use if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

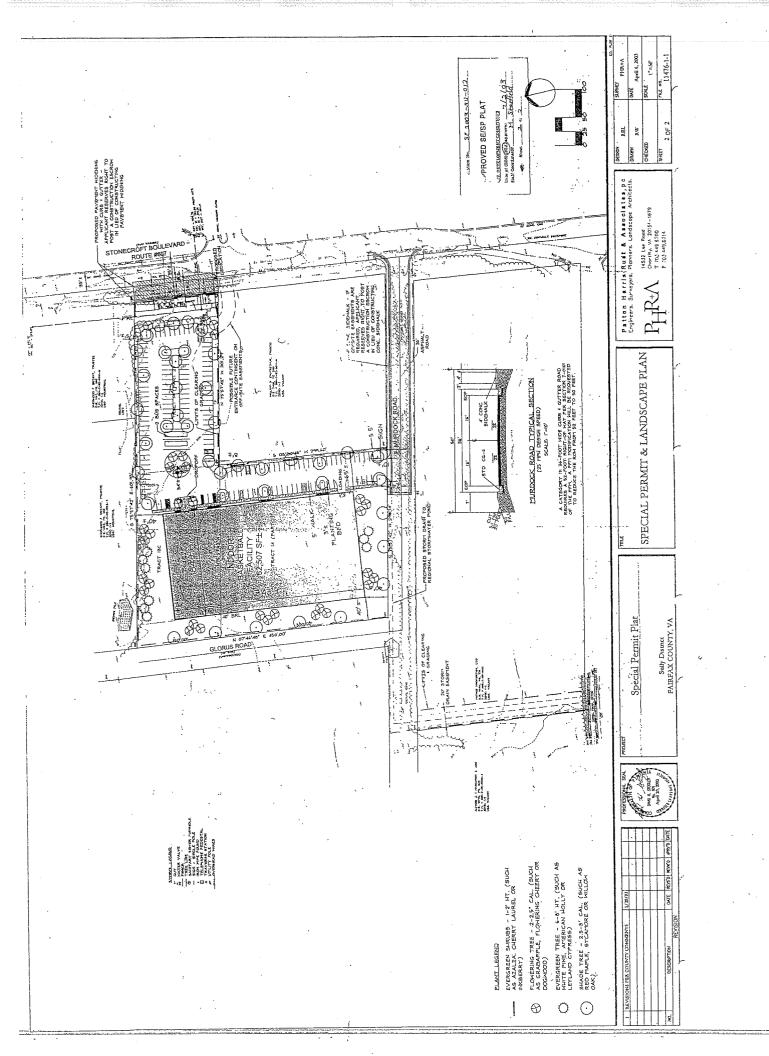
Mr. Hammack seconded the motion which carried by a vote of 6-0. Mr. Pammel was absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 2, 2003. This date shall be deemed to be the final approval date of this special permit.

A Copy Teste:

Paula McFarland, Substitute Clerk

Board of Zoning Appeals



8-006 General Standards

In addition to the specific standards set forth hereinafter with regard to particular special permit uses, all special permit uses shall satisfy the following general standards:

- 1. The proposed use at the specified location shall be in harmony with the adopted comprehensive plan.
- 2. The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.
- 3. The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.
- 4. The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.
- 5. In addition to the standards which may be set forth in this Article for a particular group or use, the BZA shall require landscaping and screening in accordance with the provisions of Article 13.
- 6. Open space shall be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.
- 7. Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. Parking and loading requirements shall be in accordance with the provisions of Article 11.
- 8. Signs shall be regulated by the provisions of Article 12; however, the BZA, under the authority presented in Sect. 007 below, may impose more strict requirements for a given use than those set forth in this Ordinance.

8-503 Standards for all Group 5 Uses

In addition to the general standards set forth in Sect. 006 above, all Group 5 special permit uses shall satisfy the following standards:

- 1. All uses shall comply with the lot size and bulk regulations of the zoning district in which located, except as may be qualified below.
- 2. All uses shall comply with the performance standards specified for the zoning district in which located, including the submission of a sports illumination plan as may be required by Part 9 of Article 14.
- 3. No building designed primarily and specifically for such use shall be located within 100 feet of any adjoining property which is in an R district.
- 4. Before establishment, all uses, including modifications or alterations to existing uses, shall be subject to the provisions of Article 17, Site Plans.